IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 1673 of 1996

Between:

Yatagiri Bala Swmay, S/o. Narasaiah,
R/o. Nandigama (V), Nandigama Mandal,
Krishna District.

..... PETITIONER

AND

1 Sub-Collector, Vijayawada,
Krishna District.
2 Mandal Revenue Officer,
Nandigama, Krishna District.
3 Vinukonda Kantamma, W/o. Prasad Rao,
R/o. New Colony, Nandigama,
Krishna District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order, Direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the 1 and 2 respondents herein vide their proceedings No. R.C.D.No. 4675/93, dt.27.11.93 and proc.No.RC.No. 160/90, dt.4-3-90 are illegal, arbitrary, and against the provision and rules of the A.P.Assigned lands (Prohibition of Transfers) Act 1977 and further declare that the action of the respondents in evicting the petitioner forcibly without following due process of law is illegal improper and against the rules and regulations consequently direct the respondents to restore the lands to the petitioner land situated in S.No. 514/1A-7 Acres, 0-43 cents situated in Nandigama Grampanchayat limits Krishna Dist, and further direct the respondents not to interfere with the peaceful possession and enjoyment of the said lands of the petitioner situated in S.No. 514/1A-7A, 0-43 cents, Nandigama grampanchayat limits Krishna Dist. and pass any such other order or orders as deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: Mr.N.SAIDA RAO

Counsel for the Respondent Nos.1 and 2: G.P. FOR ASSIGNMENT

The Court made the following :

ORAL ORDER:

1 . This writ petition is filed by the petitioner questioning the proceedings of the 1st respondent passed in Appeal No.Rc.D.No.4675/93, dated 27.11.1993 in which the appeal filed by the petitioner was dismissed as infructuous in view of the orders passed by this Court in W.P.No.7147 of 1990, dated 28.11.1990 and W.P.No.7152 of 1990, dated 29.11.1990 and the claims made by the petitioners therein were accepted. Aggrieved by the said order, the petitioner has come up with the present writ petition.

2. The learned counsel for the petitioner contended that the petitioner did not transfer the land to a third party. Even assuming that the land in question, which was assigned in favour of the petitioner, was transferred in favour of a third party, as per the provisions of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 and also the judgements of this Court, if the assigned land was transferred by the assignee, the authorities have to restore to the assignee declaring that the transfer as invalid at the first instance. But, instead of restoration, the respondents have passed an order cancelling the assignment and resuming the land to the Government. The said action is illegal and without jurisdiction, and therefore, the petitioner sought for setting aside the same with a further direction to restore his possession.

3 . Though, no counter has been filed, the learned Government Pleader for Assignment contended that as the writ petitions filed by the purchasers were allowed by this Court upholding their stand, the

petitioner is not at all aggrieved as well as not entitled to any further relief in the present writ petition. The learned counsel also contended that if at all the petitioner is aggrieved by the action of the alleged purchasers in continuing the possession, it is always open to the petitioner to take appropriate steps against them and seek appropriate relief, which is available under law. Hence, the present writ petition is not maintainable.

4. Heard both sides and considered the material available on record.

5 . Admittedly, the petitioner was assigned an extent of Ac.00.43 cents of land in S.No.514/1A-7 situated at Nandigama village of Krishna District. The said assigned land was stated to have been alienated by the petitioner. Therefore, the 2nd respondent initiated proceedings for cancellation of the said assignment, and, accordingly, passed the orders of cancellation and resumption of the land to the Government. Questioning the said order, the petitioner filed W.P.No.12192 of 1992, which was disposed of on 25.9.1992 with a direction to the petitioner to file an appeal before the appellate authority. Subsequently, the petitioner filed an appeal before the 1st respondent, but the 1st respondent, after considering elaborately all the facts including the writ petition filed by the purchasers of the land from the petitioner, which was allowed, accepting their contentions, held that the appeal filed by the petitioner has become infructuous and therefore, the appeal was dismissed. The petitioner, however, not being satisfied with the said order or with the earlier orders passed by this Court in the case of purchasers, has come up with the present writ petition.

6 . The grievance of the petitioner is that the purchasers have even suppressed certain facts and obtained orders. If it is a fact that the purchasers of the land from the petitioner have suppressed certain facts and obtained orders from this Court, it is always open to the petitioner to file an appeal against the said order and seek appropriate relief, but the petitioner did not choose to file any appeal against those orders. Therefore, in the present writ petition, the

petitioner cannot canvas the validity or otherwise of the said order. Further, even if the petitioner has got any grievance against the alleged purchaser or purchasers of the land in question, it is always open to the petitioner to take appropriate steps that are available under law against those purchasers disputing their claim or seeking any relief against them, but in the present proceedings, the petitioner is not entitled to any relief.

7. The writ petition is accordingly dismissed. No costs.

_____ (S. ANANDA REDDY, J.)

3rd December, 2004.

bcj

To

1 Sub-Collector, Vijayawada,
Krishna District.
2 Mandal Revenue Officer,
Nandigama, Krishna District.
3 Two C.Cs. to the Government Pleader for Assignment, High Court Buildings, Hyderabad (OUT)

4 Two C.D. copies